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Phillips Pamela N NSA-DJ4 USA CIV

From: Phillips Pamela N NSA-DJ4 USA CIV
Sent: Tuesday, June 18, 2013 2:52 PM
To: [redacted] NSA-DJ USA CIV; Blaskowski Paul J NSA-DJ4 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-F32 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ USA CIV; [redacted] NSA-D28 USA CIV; Phillips Pamela N NSA-DJ4 USA CIV; [redacted] USA CIV; Sherman David J Dr NSA-DJ USA CIV; [redacted] USA CIV; [redacted] NSA-D28 USA CIV; [redacted] NSA-DJ USA CIV
Subject: (U) Final Draft - FOIA Response to Individuals
Attachments: [redacted]
Signed By: pnphill@nsa.ic.gov

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All,

(U~~//FOUO~~) Attached is the final version of the draft response that the FOIA Office will begin sending to requesters tomorrow. OGC [redacted] has approved this version with only a couple of minor changes from the prior version. I will also be forwarding this to ODNI and OSD FOIA this afternoon to make them aware and let them know that we will begin responding with this tomorrow. Thanks for your reviews and assistance so that we can begin to work down the volume of requests we've received over the past week and a half.

Pamela

(U)
Pamela N. Phillips
Chief, DJ4
Freedom of Information Act/Privacy Act Office
Ops2A1118, Suite 6248
966-4071s [redacted] (U)

Classification: UNCLASSIFIED~~//FOR OFFICIAL USE ONLY~~

Approved for Release by NSA on 05-02-2014, FOIA Case # 75752

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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G MEADE, MARYLAND 20755-6000

FOIA Case: 12345

Mr. John Smith
123 Main Street
Anytown, USA

Dear Mr. Smith :

This responds to your Freedom of Information Act (FOIA) request submitted via the Internet on 10 June 2013, which was received by this office on 11 June 2013 for all records on you. Your letter has been assigned Case Number 12345. Please refer to this case number when contacting us about your request. For purposes of this request and based on the information you provided in your letter, you are considered an "all other" requester. There are no assessable fees for this request. Your request has been processed under the provisions of the FOIA.

You may be aware that one of the NSA/CSS missions is to collect, process, and disseminate communications or signals intelligence information for intelligence and counter-intelligence purposes and to support military operations. NSA is authorized to engage in these activities in order to prevent and protect against terrorist attacks, the proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States. The roles and responsibilities that NSA exercises are delineated in Executive Order 12333, as amended.

As you may be also be aware, there has been considerable speculation about two NSA intelligence programs in the press/media. Under Sec 215 of the USA PATRIOT Act, as authorized by the Foreign Intelligence Surveillance Court ("FISC"), NSA may acquire telephone metadata, such as the telephone numbers dialed and length of calls, but not the content of call or the names of the communicants. Under Sec. 702 of the FISA Amendments Act, NSA may acquire the communication of non-U.S. persons located abroad for foreign intelligence purposes such as counterterrorism and counterproliferation. This program is also authorized by the FISC. Under the FISC-authorized Sec. 215 authority, NSA cannot review any metadata unless strict requirements are met, i.e., the data may be queried only when there is a reasonable suspicion, based

on specific facts, that a phone number is associated with a foreign terrorist organization. Likewise, under Sec. 702, there are strict controls established by the FISC to ensure that there is no targeting of any U.S. person's communications and FISC-approved minimizations procedures to ensure the protection of any information concerning U.S. persons that may have been incidentally acquired.

Although these two programs have been publicly acknowledged, details about them remain classified and/or protected from release by statutes to prevent harm to the national security of the United States. To the extent that your request seeks any metadata/call detail records on you and/or any telephone numbers provided in your request, or seeks intelligence information on you, we cannot acknowledge the existence or non-existence of such metadata or call detail records pertaining to the telephone numbers you provided or based on your name. Any positive or negative response on a request-by-request basis would allow our adversaries to accumulate information and draw conclusions about NSA's technical capabilities, sources, and methods. Our adversaries are likely to evaluate all public responses related to these programs. Were we to provide positive or negative responses to requests such as yours, our adversaries' compilation of the information provided would reasonably be expected to cause exceptionally grave damaged to the national security.

Therefore, your request is denied because fact of the existence or non-existence of responsive records is a currently and properly classified matter in accordance with Executive Order 13526, as set forth in Subparagraph (c) of Section 1.4. Thus, your request is denied pursuant to the first exemption of the FOIA, which provides that the FOIA does not apply to matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign relations and are properly classified pursuant to such Executive Order.

Moreover, the third exemption of the FOIA provides for the withholding of information specifically protected from disclosure by statute. Thus, your request is also denied because the fact of the existence or non-existence of the information is exempted from disclosure pursuant to the third exemption. The specific statutes applicable in this case are: Title 18 U.S. Code 798; Title 50 U.S. Code 3024(i) (formerly Title 50 U.S. Code 403-1(i)); and Section 6, Public Law 86-36 (50 U.S. Code 3605, formerly 50 U.S. Code 402 note).

The Initial Denial Authority for NSA information is the Associate Director for Policy and Records, David J. Sherman. As your request is being denied, you are hereby advised of this Agency's appeal procedures. Any person denied access to information may file an appeal to the NSA/CSS Freedom of

Information Act Appeal Authority. The appeal must be postmarked no later than 60 calendar days of the date of the initial denial letter. The appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority (DJ4), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. The appeal shall reference the adverse determination and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes that the determination is unwarranted. The NSA/CSS FOIA Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent any unusual circumstances.

If we have misinterpreted your request and you have been affiliated with the NSA in some way as an employee, applicant, or visitor and are looking for records related to those activities, you may submit a signed Privacy Act request to seek that type of information. If you provide a Social Security number, it will assist us with the search for responsive records. The authorities for collecting this information and the use of the requested informaiton is set forth in the Privacy Act Statement provided below.

Sincerely,

PAMELA N. PHILLIPS
Chief
FOIA/PA Office

PRIVACY ACT STATEMENT: Authority for collecting information requested is contained in 5 U.S.C. § 552a and 5 U.S.C. § 552. NSA's Blanket Routine Uses found at 58 Fed. Reg. 10,531 (1993) as well as the specific uses found in GNSA02, GNSA03, and GNSA10 apply to this information. Authority for requesting your Social Security Number (SSN) is Executive Order 9397. The requested information will be used to assist the Agency in locating and disseminating the applicable records to the requestor. The disclosure of the requested information, to include your SSN, is voluntary However, failure to provide the requested information may delay the processing of your request